



MEMORANDUM

January 8, 2004

TO: CRWCD BOARD OF DIRECTORS

FROM: CHRIS TREESE

RE: Federal Affairs

This year I will prepare a “progressive memo” on federal affairs for the Board’s quarterly meetings. Since federal issues tend to remain active longer than state issues, certainly more so than state legislative issues, creating separate memos for each federal issue becomes redundant and ineffective. This progressive memo will look much like Eric’s General Manager’s report (but not as long) with new materials and updates appearing in bold in future memos.

GENERAL APPROACH:

Washington, D.C. and federal water issues represent a tremendous opportunity to spend vast sums of River District money. The River District has chosen not to do so. At the same time, DC and federal water issues are too important to dismiss or ignore. Accordingly, staff monitors federal issues through a variety of media. We will work directly with Colorado’s delegation and others to be a resource to the delegation and to ensure that River District issues are adequately addressed. Additionally, we work with state, regional, and national organizations, such as NWRA, WESTCAS, NESARC, and others to leverage our positions through others with similar interests but greater resources and a more active DC presence.

OUTLOOK:

This is, of course, an election year. Accordingly, federal activities will be both colored by and subordinated to election priorities.

Congress returns this month with eight of thirteen current year Appropriations bills still pending.

(The new fiscal year began October 1, 2003.) The remaining Appropriation bills are expected to receive immediate attention. Of course, there will also be 13 FY '04 Appropriations bills requiring attention for the following fiscal year.

With the Republican majorities in both the House and Senate in single digits, significant and controversial legislation is unlikely to pass this year, at least not before the November elections. However, the White House is expected to push Congress to pursue fiscal stimulus legislation and other initiatives to ensure that the President's agenda remains in the public eye through November.

RECENT DEVELOPMENTS:

Healthy Forests Bill

Congressman McInnis successfully shepherded his Healthy Forests Initiative (**H.R. 1904**) through the Congress. The President signed it into law December 3, 2003. This bill will "improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes."

NEW EPA ADMINISTRATOR:

President Bush appointed Utah Governor Mike Leavitt to head the EPA and the Senate confirmed him. Leavitt is widely considered a moderate Republican who has been very popular in Utah. Leavitt is one of the principal architects of the *en libra* principles advocating collaborative decision-making regarding resource stewardship.

Black Canyon of the Gunnison:

Congress approved and the President signed into law legislation adding roughly 10,000 acres to the Black Canyon of the Gunnison Gorge National Park and the Conservation Area. The additional lands will come from existing federal holdings and from willing sellers. The legislation included language requested by the Uncompahgre Valley Water Users to address land ownership and access issues related to their facilities. There were no other water implications to this legislation. The additional lands are required to be managed for multiple use.

Clean Water Act/ §319 Guidelines

EPA has issued guidelines describing the process and criteria for awarding non-point source (NPS) grants. Funding for Section 319 has more than doubled in the past five years. "The guidelines are intended to clarify, consolidate, and shorten previously issued guidance."

Water Funding Bill and Drought Relief:

The FY '04 Energy and Water Appropriations bill has been signed into law. The bill authorizes the Commissioner of the Bureau of Reclamation to enter into "grants, cooperative agreements, and other agreements with irrigation or water districts to fund up to 50% of the cost of planing, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation at existing water supply projects."

Animas-LaPlata Project:

Updated cost estimates pushed the projected cost of the scaled-down project to \$500 million. A companion revised construction schedule now projects completion in 2011. The cost increases were the subject of considerable public debate, including a Congressional field hearing, this winter.

ISSUES BEING MONITORED:

Tamarisk:

There are several bills working their way through Congress which would provide funding for tamarisk and Russian olive assessment and removal. These bills enjoy bi-partisan support and stand a good chance of passage, not withstanding the fact that they represent new funding requests for a new program.

Good Samaritan:

In late September Senator Campbell introduced a Good Samaritan Abandoned and Inactive Mined Lands Remediation Act (**S. 1660**) with Senators Allard, Ensign (R-NV), Hatch (R-UT) and Reid (D-NV). It would protect parties against liability for environmental cleanup efforts when there is or may be a discharge of pollutants into waters of the U.S. It authorizes the EPA to issue a remediation permit if an applicant meets certain requirements. The bill has been referred to the Environment, Public Works Committee. This legislation is similar to that introduced by Congressman Mark Udall (**H.R. 504**) in the House earlier in 2003 and reviewed with the board at that time.

Western Waters and Surface Owners Protection Act:

Congressman Mark Udall introduced **H.R. 3698** whose short title is "Western Waters and Surface Owners Protection Act." This act is intended to, "provide for the protection of water resources and surface estate owners in the development of oil and gas resources, including coalbed methane." Its applicability is limited to severed estates where the federal government owns the subsurface mineral rights and is considering leasing those rights for development. Its water requirements include: a.) replacement of water supplies that are affected by drilling and production operations; b.) reinjected water must be returned to the same aquifer from which it was produced or one of lesser quality, and

c.) compliance with all federal and state water discharge laws. This last point has been the subject of contention and litigation across the West.

ESA:

Seantor Domenici (R-NM) attached a rider to an appropriations bill that would effectively overrule the 10th Circuit Court decision regarding the silvery minnow, prohibiting releases from the San Juan-Chama Project for minnow recovery efforts.

House Resources Committee Chairman, Richard Pombo, has set reauthorization and reform of the Endangered Species Act as a priority for this year's session of Congress. From recent press reports, his reform priorities are focused on requiring sound science, publication of recovery goals at the time of listing, and greater state and local government involvement in administration and decision-making.

The Act celebrated its 30th anniversary last month with the requisite debate on its merits and shortcomings.

"Twenty-First Century Water Commission"

Congressman Linder (R-GA) is again pursuing a blue ribbon, nationwide water commission. However, this session he has considerably more support. **H.R. 135** passed the House this past fall. Congressmen McInnis and Beauprez are co-sponsors.

The bill has been referred to the Senate Environment and Public Works Committee. This bill would create a nine-member commission: 5 appointed by the President, 2 by the House and 2 by the Senate. One significant difference between this session's bill and last session's is that the membership this time is not dominated by federal officials. The commission would be charged with examining and reporting on ways to study and develop recommendations for a comprehensive water strategy to address the nation's future needs for freshwater resources. A final report is required in three years.

Energy Bill

The Energy Bill stalled last year in the Senate following relatively brisk passage in the House. With other, high profile legislation passed last year, notably Medicare reform, and the highly controversial nature of the Energy Bill, final passage this year is unlikely. However, there are relatively small elements of the bill which are important to the River District. Ritchard Dam doesn't meet the current requirements of an "exempt" hydroelectric facility. A simple updating of the definition of qualifying structures is included in the current bill.

“The Reclamation Rural Water Supply Act”

Senator Domenici (R-NM) introduced **S. 1732** to establish a “rural water supply program in Reclamation state to provide a clean, safe, affordable, and reliable water supply to rural residents.” Federal cost share on eligible projects is up to 75%. It has been assigned to the Senate Committee on Energy and Natural Resources.

WATER SUPPLY RELIABILITY & ENVIRONMENTAL IMPROVEMENT ACT

Water and Power Subcommittee chairman, Ken Calvert (R-CA), introduced **H.R. 2828** directing the Secretary of the Interior to undertake a competitive grant program to: (1) investigate and identify opportunities for studying, planning, and designing water resources activities; and (2) construct demonstration and permanent facilities or implement other programs, projects, and activities which benefit water storage; conveyance; water use efficiency; water transfers; groundwater recharge; integrated regional water management plans; ecosystem restoration; watersheds; water quality; and diversification of water supplies.

The bill authorizes \$50 million for FY ‘04 and \$100 million thereafter. No more than 30% of the amount available can be allocated to one state.